

INDIANA EMERGENCY RESPONSE COMMITTEE (IERC) MEETING  
Indiana Government Center, Conference Room 1  
302 West Washington Street  
Indianapolis, Indiana 46204  
July 14, 2008, at 1:00 P.M.

**WELCOME AND INTRODUCTION**

Acting Chairman Mike Garvey welcomed everyone to the meeting and asked for roll call.

**ROLL CALL TO ORDER**

Bruce Palin—State Government  
Mike Bigler—State Government  
Sherman Greer—Local Government  
Mike Garvey—Proxy Chair

Michael Pace—Industry  
Carol Shelby—Public  
Brian Lott—Local Government  
Thomas Melville—State Government

The following Commission members were absent:

Dean Larson—Public  
William Reed—Public

Robert Reilley—Industry  
Jim Pridgen—Industry

The following staff members were present:

John Steel—IDHS  
Laura Stedham—IDEM

Mara Snyder—IDHS  
Ian Ewusi—IDEM/IDHS

The following members of the audience were present:

Bob Brown—Wabash County LEPC  
Brad Gavin—IDHS  
Christine Monte—State Inspector's Office  
Cynthia Carrasco—State Ethics Commission  
David Thomas—State Inspector General  
Douglas Mawhorr—Delaware County LEPC  
Duane Davis—Jackson County LEPC / EMAI  
Gary McDaniel—Kosciusko County LEPC  
James Plum—Jefferson County LEPC  
Jeff Larmore—Marion County Health Department /LEPC  
Josh Frasure—IDHS  
Katherine Gappa—State Inspector's Office  
Paul Bergman—PDK Enterprises  
Steve Gauger—Tippecanoe County

**QUORUM**

The LEPC coordinator indicated that a quorum was present.

**CONSIDERATION OF THE MINUTES**

A motion to approve and adopt the May 12, 2008, minutes was made by Chairman Garvey, and was seconded by Mr. Palin. **MOTION CARRIED.**

## **REPORT OF THE CHAIR**

Acting Chairman Garvey discussed the recent flooding and tornado activity that affected Indiana and resulted in a federal disaster declaration for 41 counties. He indicated that this will end up being one of the costliest disasters in Indiana history. He also indicated that many lessons will be learned from this event which will be reflected in the disaster planning process. He noted that the storm activity caused a few small hazardous materials release/response events.

## **COMMITTEE REPORTS**

### **Communications Committee—Sherman Greer, Chair**

Mr. Greer provided a draft copy of the agenda for the IERC and EMAI conference scheduled to be held October 16–19, 2008. He indicated that an LEPC 101 session for new LEPC members would be offered the evening of October 16. Mr. Greer noted that the conference would feature notable speakers from the United States Chemical Safety and Hazards Investigation Board, Chemical Security Compliance Division of the Office of Infrastructure Protection and the Apex North Carolina Fire Department. He also highlighted the topics to be covered at the conference.

Duane Davis from EMAI requested \$5,000 from the IERC and explained that the funds were needed to support the conference. He further elaborated that the funds would help offset printing, hotel and audio/visual materials costs. Mr. Greer indicated that in the past, the IERC spent an additional \$2,500 to purchase portfolios for conference attendees and requested that the same amount be allocated for the conference.

### **Technical Committee—James Pridgen, Chair**

No report provided.

### **Policy Committee—Dean Larson, Chair**

No report provided.

### **Training Committee—Carol Shelby, Chair**

Ms. Shelby reported that the committee had completed work on the training section for the new Policy Handbook. She indicated that the committee had the following recommendations:

- LEPCs should reach out to all the community response agencies, support hazardous materials training and find ways to best utilize EPCRA funds.
- A flyer should be published that encourages any and all hazardous materials training for responders.
- LEPCs should make best use of their funds by using good judgment when selecting vendors for their projects.

Chairman Garvey asked for a motion to include the proposed recommendations this in the policy handbook. Motion was made by Mr. Lott and seconded by Major Melville. **MOTION CARRIED.**

Ms. Shelby also mentioned that a letter was being developed by the Training Committee that would solicit accurate and complete vendor contact information. The letter would be sent to all vendors currently listed on the LEPC resource guide. She also indicated that the committee recommended adding two new companies to the LEPC resource list: PDK Enterprises, which contracts to develop LEPC plans; and DQE, which offers decontamination training. Mr. Lott made a motion to approve both companies and was seconded by Mr. Bigler. **MOTION CARRIED.**

#### Fiscal Committee—Bruce Palin, Chair

Mr. Palin discussed the proposed spending plan that he provided for review by the commission. He explained that the budget included \$5,000 for the EMAI to support the Fall Conference; \$2,500 for conference materials; and \$70,000 for IDEM to pursue a contractor to develop a system for all Tier II information to be submitted through a website free of charge and for an administrative position to assist Mr. Ewusi. Mr. Palin noted that total proposed budget for 2008–2009 would be \$169,000, leaving a balance of about \$100,000. Chairman Garvey asked for a motion to adopt the 2008 spending plan. Motion was made by Ms. Shelby and was seconded by Mr. Greer. **MOTION CARRIED.**

There was conversation among the members about funding a temporary position to help develop/maintain electronic LEPC records. This position would require that the individual have good computer skills to operate Microsoft programs, such as Access, Word and Excel, in order to better assist LEPCs in submitting their compliance reports and reduce paperwork.

Chairman Garvey asked for a motion to approve all committee reports. Motion was made by Mr. Lott and was seconded by Mr. Greer. **MOTION CARRIED.**

#### OLD BUSINESS

Mr. David Thomas from the Indiana Inspectors General Office spoke about the Code of Ethics and how they apply to the LEPCs. Ms. Cynthia Carrasco, the States Ethics Director, was also present to assist him. Mr. Thomas noted that upon reviewing recent inquiries, there seemed to be three different topics of discussion:

1. If the ethics code applied to LEPCs.
2. If all LEPC members must go through the ethics training.
3. How specific questions may be presented to the Ethics Commission and how interpretations of these questions will be addressed.

Mr. Thomas noted that LEPC members are considered special state appointees and, unlike full-time state employees, special state appointees are volunteers but must abide by the same state ethics rules. Regarding ethics training, the code does apply and everyone must take the training. He indicated that there is an obligation to report back to the Ethics Commission, Governor and State Legislature and to file ethics complaints against those who have not completed the ethics training. He also reported that there is a system in place that offers confidentiality to those submitting specific ethics questions. Other avenues for questions to the Ethics Commission are to appear before of the Ethics Commission or go the website where all 15 of the ethics rules are explained, discussed and summarized in 4 different areas as follows:

1. Full-time, part-time or volunteer—The code does apply to all, whether full-time, part-time or volunteer, and it applies 24 hours a day.
2. Gifts—One of the questions posed was whether or not the gift rule would prohibit LEPC members from accepting basic utilities. This is not the intent of the gift rule, nor receiving services from local hospitals. The gift rule prohibits a special state appointee from accepting several items, including gifts, travel expenses, and other items from someone who is seeking to influence an individual in his or her official capacity. Ms Carrasco stated that “capacity” refers to one’s capacity as an LEPC member. If one is in his or her official business, conducting business with a certain company and that company has no relationship to the Department of Homeland Security, LEPC or the like, and if the company is not seeking to inform the individual in his or her capacity as an LEPC member, then

one does not have to worry about the gift rule. If any of these conditions does apply, the LEPC member would need to consider that. If employees or special state employees have questions about a particular situation, then they should contact the Ethics Commission with any questions.

3. Political activity—Political activity only restricts an individual in two different areas:
  - When one is on duty, while acting in official capacity as an LEPC member—one should be sure that he or she is not advocating in the political process.
  - Fundraising—an LEPC member can fundraise but is restricted in certain ways. An LEPC member cannot fundraise from those the individual supervises, or seek funds from those with whom the individual has a business relationship. A business relationship is one with an entity that is regulated by an agency.
4. Conflict of interest—A special state appointee may not participate in divisions or votes in which that special state appointee and various other entities have a financial interest in the outcome of the matter. Conflict of interest occurs when a special state appointee has a financial interest or has a spouse with a financial interest, and the organization with which the appointee is serving (as a board member or associate member) or is seeking employment has a related financial interest.

### **NEW BUSINESS**

Mr. Ewusi discussed the progress of the new Policy Handbook. He indicated that it was nearly complete and the items provided by the Training Committee would be included in the handbook and posted at a specific website for the commission to review and provide comments. He noted that all comments provided by commission members would be added to the final version.

### **REPORT OF THE FIELD REPRESENTATIVE**

Mr. Ewusi reported the following field activities:

- A letter has been sent to Department of Revenue to release annual funding to 66 LEPCs who have complied with the funding requirements. An additional 8 LEPCs are anticipated to also receive their funds shortly after they meet the funding requirements. Once these 8 LEPCs are funded, LEPC compliance will be 81%, the highest percentage ever recorded in the history of the program.
- Sullivan, Tipton and Union Counties' LEPCs are expected to be compliant and funded next year, which would increase LEPC compliance to 85%.
- The SARA Title III reporting indicates an increase from 4700 last year to 5157 reporting facilities this year. This is a result of LEPCs tracking and informing facilities about their EPCRA reporting obligation. The increase in the number of reporting facilities will translate to an increase in the annual funding for LEPCs next year.
- Training on CAMEO is ongoing, and workshops have been conducted in Marshall, Fulton, and Miami Counties. Law enforcement officials are starting to attend more CAMEO classes.
- Jennings County LEPC has requested that a letter from the IERC be sent to a facility for non-compliance. The facility has not responded to correspondence from the LEPC, and if the facility does not respond to the IERC letter, the EPA will be notified for further action.
- White County LEPC was showcased in a local paper for its work in the community and with the local response agencies.
- Ripley County LEPC is working on providing flash drives containing the LEPC plan to all necessary emergency personnel. This will eliminate paper copies and computer disks.
- On May 15, 2008, an agent from EPA's Office of Investigations, Financial Fraud Division, contacted Mr. Ewusi about a verbal complaint he had received from the former Wells County Emergency Management Director. The complaint charged that the IERC was misusing funds that the federal government had allocated for Wells County. Mr. Ewusi reported to the EPA investigator that the IERC is not funded by federal grants but rather by state funds. A follow-up letter was sent to EPA explaining the history, purpose, funding source, compliance and funding requirements of the

IERC. Since this was a verbal complaint, there was no written complaint available that could be sent to the IERC.

Completing the report, Mr. Ewusi discussed an Allen County inquiry about amending their bylaws to remove members who fail to attend 2 consecutive meetings and fail to complete the ethics training. The issue in question is whether the IERC has the authority to add and remove LEPC members. Ms. Snyder said the LEPC would have to advise the commission on the matter and request that the commission take action.

### **MEMBERSHIP ROSTER APPROVALS**

The following counties have submitted new or updated rosters for approval:

Brown	Dubois	Elkhart	Hamilton	LaGrange
Lake	Monroe	Newton	Union	Wayne

Mr. Lott made a motion to approve the roster of the 10 counties, seconded by Mr. Greer. **MOTION CARRIED.**

### **LEPC COMMENTS**

Paul Bergman spoke on behalf of LEPCs that he had contracted with to develop hazardous materials plans. He indicated that one of these LEPCs was contacted by IDHS and told that they would not be eligible for grant reimbursement for this service. The reason offered was that since he served as a special state appointee with the Homeland Security Foundation during the contract execution, he was in violation of ethics rules. Mr. Bergman indicated that he had personally appeared before the State Ethics Commission to provide testimony and receive a formal opinion. The ruling said that obviously there was a technical violation since he had not appeared in front of the commission. However, the ruling indicated that he had complied with all the other parts of the law and that IDHS had failed to instruct Mr. Bergman of the statutory requirement to file disclosure with the commission. He asked the IERC to release the grant monies for the LEPCs that he had contracted with to develop hazardous materials plans. Similar concerns were expressed by Douglas Mawhorr from Delaware County LEPC, Bob Brown from Wabash County LEPC, and Jim Plum from Jefferson County LEPC. Chairman Garvey informed the LEPC members that IDHS was aware of the situation and was working on resolving the situation and releasing the funds as quickly as possible.

Duane Davis, Jackson County LEPC and EMAI Chair, reported that EMAI was working on the agenda for the Fall Conference and would include an award submission announcement with the release of the agenda. He noted that for next year's conference, the organizers would like to include public works, utilities, pipeline companies, and spill clean-up agencies to broaden attendance. Additionally, he noted that the EMAI would be sitting down with the IERC Communications Committee to start planning next year's conference and develop a proposed budget to determine what support from the IERC would be needed.

Gary McDaniel from the Kosciusko County LEPC reported that they recently lost their hazardous materials instructor in an accident and had recently found a replacement. He requested that the new instructor be added to the LEPC resource list so that he could be paid for the services he had provided and would provide in the future. He indicated that the instructor, Mr. Randall Stone, was qualified as a Hazmat technician, specialist, fire instructor, fire safety officer, emergency medical technician, and EMS instructor. Ms. Snyder explained that there could not be a retroactive approval and that the instructor cannot start training until he is approved by the IERC; also the request must be made in writing. Chairman Garvey asked for a motion regarding this applicant. Ms. Shelby made a motion that

the request for temporary approval be denied but that approval be reviewed pending additional information and was seconded by Major Melville. **MOTION CARRIED.**

**EPA COMMENTS**

None

**PUBLIC COMMENTS**

None

**NEXT MEETING**

September 8, 2008, 1:00 P.M.

Indiana Government Center South, Conference Room 1

**ADJOURNMENT**

Meeting was adjourned at 3:40 P.M.

**Signed copy on file**

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Joseph E. Wainscott, Jr., Chair